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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/716,271	11/18/2003	Michael R. DeLuca	1289-03	6050

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IP DEPARTMENT OF PIPER RUDNICK LLP  
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EXAMINER

TANNER, HARRY B

ART UNIT PAPER NUMBER

3744

DATE MAILED: 07/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/716,271	Applicant(s) DELUCA, MICHAEL R.	
	Examiner Harry B. Tanner	Art Unit 3744	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |  |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>2/11/04</u> . | 6) <input type="checkbox"/> Other: ____  |

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:


(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 5-7, 9-11, 13-15 and 17-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sumida et al in view of Kamada et al. Sumida discloses the invention substantially as claimed. Sumida discloses a digital temperature control having a thermostat housing including a controller, temperature sensor and display in which the ambient temperature is compared with a set point temperature to control the operation of a temperature modifying device. Kamada teaches the use of a display that can be rotated ninety degree in order to allow the display to be read from a plurality of orientations (see col. 9, lines 25-32). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the system of Sumida such that it included the use of a display that can be rotated ninety degree in order to allow the display to be read from a plurality of orientations in view of the teachings of Kamada. Sumida shows the use of jumpers for programming thermostat operation. Accordingly, it would have obvious to one of ordinary skill in the art to have used a jumper to provide the display orientation.

Claims 4, 8, 12 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sumida et al in view of Kamada et al as applied to claim 1 above, and further in view of Official Notice. Official Notice is taken that the use of thermistors

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as temperature sensors in electronic temperature controls and the use of labeling on thermostat housing are conventional in the temperature control art. Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the system of Sumida such that temperature sensor 26 was a thermistor and that the thermostat housing had labeling readable in the plurality of orientations.



**Harry B. Tanner**  
**Primary Examiner**

Harry Tanner  
July 13, 2004  
703-308-2622